

THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION

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DANIEL GENE BOZE, et al.,

Plaintiffs,

v.

Case No. 2:21-cv-00002

GREAT AMERICAN  
INSURANCE COMPANY,

Defendant.

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**PLAINTIFFS' MOTION TO RECONSIDER,  
ALTER, AMEND, VACATE AND/OR SET ASIDE JUDGMENT**

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COME NOW the Plaintiffs, Daniel Gene Boze, Jimmy Joe Boze and the Estate of Mary Ruth Boze, by and through counsel, and pursuant to Rules 59 and 60 of the Federal Rules of Civil Procedure move this Court to reconsider, alter, amend, vacate and/or set aside its September 26, 2024, Order and Memorandum Opinion dismissing with prejudice the Plaintiffs' Complaint, on the grounds that the dismissal was incorrect and premature given the pendency of the separate civil action, Case No. 2:23-CV-00068, challenging the administrative determination of the Agency Defendants. [Doc. #66 at 15]

If it is the conclusion of this Court that a Section 20(i) noncompliance determination is a prerequisite to any further civil action against Defendant GAIC and that state law is preempted unless such a determination is obtained, it is only logical that this Court take up the cross motions of the Plaintiffs and the Agency Defendants in Case No. 2:23-cv-00068 before taking up Defendant GAIC's Rule 12(b)(6) Motion to Dismiss. That is, the District Court should determine first if the Plaintiffs were entitled to an RMA determination of noncompliance pursuant to Section 20(i) before

dismissing their case because they have asked this Court to remedy the Agency's refusal.

In further support of their Motion Plaintiffs have this day filed a separate Memorandum Brief in Support of Plaintiffs' Motion to Reconsider, Alter, Amend, Vacate and/or Set Aside Judgment.

Respectfully submitted,

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Tennessee Bar No. 17761  
Attorney for the Plaintiffs

**CERTIFICATE OF SERVICE**

I, WENDELL L. HOSKINS II, attorney for Plaintiffs, in the above styled and numbered cause of action, do hereby certify that I have this day served electronically, a true and correct copy of the foregoing pleading to Thomas C. James, Esquire, Sanders & Associates, LPA, 8040 Hosbrook Road, Suite 202, Cincinnati, Ohio 45326; and Brigid M. Carpenter, Baker, Donelson, Bearman, Caldwell, & Berkowitz, P.C., 211 Commerce Street, Suite 800, Nashville, Tennessee 37201.

THIS, the 21<sup>st</sup> day of October, 2024.

*Wendell L. Hoskins II*  
WENDELL L. HOSKINS II